

HOUSE BILL No. 2086

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-4.

Synopsis: Incumbent worker training program and fund. Establishes the incumbent worker training program to be funded by a 0.035% assessment upon wages and to be administered by the department of workforce development. Establishes the incumbent worker training fund to be used for the administration of the incumbent worker training program. Makes conforming amendments.

Effective: January 1, 2000.

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January 27, 1999, read first time and referred to Committee on Labor and Employment.



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Introduced

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

HOUSE BILL No. 2086

A BILL FOR AN ACT to amend the Indiana Code concerning labor and industrial safety.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 22-4-4-3 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JANUARY 1, 2000]: Sec. 3. (a) For calendar quarters
3 beginning on and after April 1, 1979, and before April 1, 1984, "wage
4 credits" means remuneration paid for employment by an employer to
5 an individual. Wage credits may not exceed three thousand six hundred
6 sixty-six dollars (\$3,666) and may not include payments specified in
7 section 2(b) of this chapter.
8 (b) For calendar quarters beginning on and after April 1, 1984, and
9 before April 1, 1985, "wage credits" means remuneration paid for
10 employment by an employer to an individual. Wage credits may not
11 exceed three thousand nine hundred twenty-six dollars (\$3,926) and
12 may not include payments specified in section 2(b) of this chapter.
13 (c) For calendar quarters beginning on and after April 1, 1985, and
14 before January 1, 1991, "wage credits" means remuneration paid for
15 employment by an employer to an individual. Wage credits may not
16 exceed four thousand one hundred eighty-six dollars (\$4,186) and may
17 not include payments specified in section 2(b) of this chapter.

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(d) For calendar quarters beginning on and after January 1, 1991, and before July 1, 1995, "wage credits" means remuneration paid for employment by an employer to an individual. Wage credits may not exceed four thousand eight hundred ten dollars (\$4,810) and may not include payments specified in section 2(b) of this chapter.

(e) For calendar quarters beginning on and after July 1, 1995, and before July 1, 1997, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3301 and 3102 et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand dollars (\$5,000) and may not include payments specified in section 2(b) of this chapter.

(f) For calendar quarters beginning on and after July 1, 1997, and before July 1, 1998, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3301 and 3102 et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand four hundred dollars (\$5,400) and may not include payments specified in section 2(b) of this chapter.

(g) For calendar quarters beginning on and after July 1, 1998, and before July 1, 1999, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3301 and 3102 et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand six hundred dollars (\$5,600) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(h) For calendar quarters beginning on and after July 1, 1999, and **before July 1, 2000**, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3301 and 3102 et seq. of the Internal Revenue Code. Wage credits may not exceed five thousand eight hundred dollars (\$5,800) and may not include payments that are excluded from the definition of wages under section 2(b) of this chapter.

(i) For calendar quarters beginning on and after July 1, 2000, "wage credits" means remuneration paid for employment by an employer to an individual and remuneration received as tips or gratuities in accordance with Sections 3301 and 3102 et seq. of the Internal Revenue Code. Wage credits may not exceed six thousand two hundred dollars (\$6,200) and may not include payments that are excluded from the definition of wages under section 2(b) of this



chapter.

SECTION 2. IC 22-4-10.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]:

Chapter 10.5. Incumbent Worker Training Program

Sec. 1. The incumbent worker training program is established for the following purposes:

- (1) To improve manufacturing productivity levels in Indiana.
- (2) To make firms become competitive by making workers more productive through training.
- (3) To create a competitive economy by creating and retaining jobs.
- (4) To encourage the increased training necessary because of an aging workforce.
- (5) To avoid potential payment of unemployment compensation by providing workers with enhanced job skills.

Sec. 2. Effective January 1, 2000, the incumbent worker training assessment is thirty-five thousandths percent (0.035%) to be assessed upon wages (as defined in IC 22-4-4-2) paid by all employers except those who have elected to make payments in lieu of contributions (as defined in IC 22-4-2-32).

Sec. 3. (a) Incumbent worker training assessments accrue and are payable by each employer under section 2 of this chapter for each calendar year in which the employer is subject to IC 22-4-10-1 with respect to wages for employment.

(b) Incumbent worker training assessments are due and payable to the department by each employer for incumbent worker training and are not deductible, in whole or in part, from the wages of individuals in the service of the employer.

Sec. 4. Incumbent worker training assessments must be reported on the employer's quarterly contribution report as prescribed by the commissioner under IC 22-4-10-1.

Sec. 5. Delinquent or unpaid incumbent worker training assessments must be collected under IC 22-4-29.

Sec. 6. The incumbent worker training program is administered by the department of workforce development in the manner prescribed by the commissioner.

Sec. 7. Incumbent worker training assessments paid to the department under this chapter must be deposited by the department in the incumbent worker training fund established by IC 22-4-24.5-2.

SECTION 3. IC 22-4-11-3 IS AMENDED TO READ AS



FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. (a) Except as provided in section 3.1 of this chapter, the applicable schedule of rates for the calendar year 1983 and thereafter shall be determined by the ratio resulting when the balance in the fund as of the determination date is divided by the total payroll of all subject employers for the immediately preceding calendar year. Schedule A, B, C, or D, appearing on the line opposite the fund ratio in the schedule below, shall be applicable in determining and assigning each employer's contribution rate for the calendar year immediately following the determination date. For the purposes of this subsection, "total payroll" means total remuneration reported by all contributing employers as required by this article and does not include the total payroll of any employer who elected to become liable for payments in lieu of contributions (as defined in IC 22-4-2-32). For the purposes of this subsection, "subject employers" means those employers who are subject to contribution.

FUND RATIO SCHEDULE

When the Fund Ratio Is:

As Much As	But Less Than	Applicable Schedule
	1.0%	A
1.0%	1.5%	B
1.5%	2.25%	C
2.25%		D

(b) If the conditions and requirements of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a credit balance and who are eligible therefor according to each employer's credit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A, B, C, or D on the line opposite his credit reserve ratio as set forth in the rate schedule below:

RATE SCHEDULE FOR ACCOUNTS WITH CREDIT BALANCES

When the Credit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%)			
		A	B	C	D
3.00		1.2 1.045	0.2 0.145	0.2 0.145	0.2 0.145
2.80	3.00	1.4 1.225	0.4 0.325	0.2 0.145	0.2 0.145
2.60	2.80	1.6 1.405	0.6 0.505	0.2 0.145	0.2 0.145
2.40	2.60	1.8 1.585	0.8 0.685	0.4 0.325	0.2 0.145



1	2.20	2.40	2.0 1.765	1.0 0.865	0.6 0.505	0.2 0.145
2	2.00	2.20	2.2 1.945	1.2 1.045	0.8 0.685	0.4 0.325
3	1.80	2.00	2.4 2.125	1.4 1.225	1.0 0.865	0.6 0.505
4	1.60	1.80	2.6 2.305	1.6 1.405	1.2 1.045	0.8 0.685
5	1.40	1.60	2.8 2.485	1.8 1.585	1.4 1.225	1.0 0.865
6	1.20	1.40	3.0 2.665	2.0 1.765	1.6 1.405	1.2 1.045
7	1.00	1.20	3.2 2.845	2.2 1.945	1.8 1.585	1.4 1.225
8	0.80	1.00	3.4 3.025	2.4 2.125	2.0 1.765	1.6 1.405
9	0.60	0.80	3.6 3.205	2.6 2.305	2.2 1.945	1.8 1.585
10	0.40	0.60	3.8 3.385	2.8 2.485	2.4 2.125	2.0 1.765
11	0.20	0.40	4.0 3.565	3.0 2.665	2.6 2.305	2.2 1.945
12	0.00	0.20	4.2 3.745	3.2 2.845	2.8 2.485	2.4 2.125

(c) Each employer whose account as of any computation date occurring on and after June 30, 1984, shows a debit balance shall be assigned the rate of contributions appearing on the line opposite his debit ratio as set forth in the following rate schedule for accounts with debit balances:

**RATE SCHEDULE FOR ACCOUNTS
WITH DEBIT BALANCES**

When the Debit Reserve Ratio Is:

As	But	Rate Schedules (%)			
Much	Less				
As	Than	A	B	C	D
	1.50	4.50 4.015	4.40 3.925	4.30 3.835	4.20 3.745
1.50	3.00	4.80 4.285	4.70 4.195	4.60 4.105	4.50 4.015
3.00	4.50	5.10 4.555	5.00 4.465	4.90 4.375	4.80 4.285
4.50	6.00	5.40 4.825	5.30 4.735	5.20 4.645	5.10 4.555
6.00		5.70 5.095	5.60 5.005	5.50 4.915	5.40 4.825

(d) Any adjustment in the amount charged to any employer's experience account made subsequent to the assignment of rates of contributions for any calendar year shall not operate to alter the amount charged to the experience accounts of any other base-period employers.

SECTION 4. IC 22-4-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. (a) With respect to initial claims filed for any week beginning on and after July 6, 1980, and before July 7, 1985, each eligible individual who is totally unemployed (as defined in IC 22-4-3-1) in any week in his benefit period shall be paid for the week, if properly claimed, benefits at the rate of four and three-tenths percent (4.3%) of the individual's wage credits in the calendar quarter during the individual's base period in which the wage credits were highest. However, the weekly benefit amount may not exceed:



(1) eighty-four dollars (\$84) if the eligible and qualified individual has no dependents;

(2) ninety-nine dollars (\$99) if the eligible and qualified individual has one (1) dependent;

(3) one hundred thirteen dollars (\$113) if the eligible and qualified individual has two (2) dependents;

(4) one hundred twenty-eight dollars (\$128) if the eligible and qualified individual has three (3) dependents; or

(5) one hundred forty-one dollars (\$141) if the eligible and qualified individual has four (4) or more dependents.

With respect to initial claims filed for any week beginning on and after July 7, 1985, and before July 6, 1986, each eligible individual who is totally unemployed (as defined in IC 22-4-3-1) in any week in the individual's benefit period shall be paid for the week, if properly claimed, benefits at the rate of four and three-tenths percent (4.3%) of the individual's wage credits in the calendar quarter during the individual's base period in which the wage credits were highest. However, the weekly benefit amount may not exceed:

(1) ninety dollars (\$90) if the eligible and qualified individual has no dependents;

(2) one hundred six dollars (\$106) if the eligible and qualified individual has one (1) dependent;

(3) one hundred twenty-one dollars (\$121) if the eligible and qualified individual has two (2) dependents;

(4) one hundred thirty-seven dollars (\$137) if the eligible and qualified individual has three (3) dependents; or

(5) one hundred fifty-one dollars (\$151) if the eligible and qualified individual has four (4) or more dependents.

With respect to initial claims filed for any week beginning on and after July 6, 1986, and before July 7, 1991, each eligible individual who is totally unemployed (as defined in IC 22-4-3-1) in any week in the individual's benefit period shall be paid for the week, if properly claimed, benefits at the rate of four and three-tenths percent (4.3%) of the individual's wage credits in the calendar quarter during the individual's base period in which the wage credits were highest. However, the weekly benefit amount may not exceed:

(1) ninety-six dollars (\$96) if the eligible and qualified individual has no dependents;

(2) one hundred thirteen dollars (\$113) if the eligible and qualified individual has one (1) dependent;

(3) one hundred twenty-nine dollars (\$129) if the eligible and qualified individual has two (2) dependents;



(4) one hundred forty-seven dollars (\$147) if the eligible and qualified individual has three (3) dependents; or

(5) one hundred sixty-one dollars (\$161) if the eligible and qualified individual has four (4) or more dependents.

With respect to initial claims filed for any week beginning on and after July 7, 1991, benefits shall be paid in accordance with subsections (d) through (l).

For the purpose of this subsection and subsections (e) through (g), the term "dependent" means lawful husband or wife, natural child, adopted child, stepchild, if such stepchild is not receiving aid to dependent children under the welfare program, or child placed in the claimant's home for adoption by an authorized placement agency or a court of law, provided such child is under eighteen (18) years of age and that such dependent claimed has received more than one-half (1/2) the cost of support from the claimant during ninety (90) days (or for duration of relationship, if less) immediately preceding the claimant's benefit year beginning date, but only if such dependent who is the lawful husband or wife is unemployed and currently ineligible for Indiana benefits because of insufficient base period wages. The number and status of dependents shall be determined as of the beginning of the claimant's benefit period and shall not be changed during that benefit period.

With respect to initial claims filed for any week beginning on and after July 6, 1980, the term "dependent" shall include a person with a disability over eighteen (18) years of age who is a child of the claimant and who receives more than one-half (1/2) the cost of his support from the claimant during the ninety (90) day period immediately preceding the claimant's benefit year beginning date. "Child" includes a natural child, an adopted child, a stepchild of claimant, if the stepchild is not receiving aid to dependent children under the welfare program, or a child placed in the claimant's home for adoption by an authorized placement agency or a court of law. The term "disabled" means an individual who by reason of physical or mental defect or infirmity, whether congenital or acquired by accident, injury, or disease, is totally or partially prevented from achieving the fullest attainable physical, social, economic, mental, and vocational participation in the normal process of living.

For the purpose of this subsection, the term "dependent" includes a child for whom claimant is the court appointed legal guardian.

On and after July 6, 1980, and before July 7, 1991, if the weekly benefit amount is less than forty dollars (\$40), the board, through the commissioner, shall pay benefits at the rate of forty dollars (\$40) per

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1 week. On and after July 7, 1991, if the weekly benefit amount is less
 2 than fifty dollars (\$50), the board, through the commissioner, shall pay
 3 benefits at the rate of fifty dollars (\$50) per week. If such weekly
 4 benefit amount is not a multiple of one dollar (\$1), it shall be computed
 5 to the next lower multiple of one dollar (\$1).

6 (b) Each eligible individual who is partially or part-totally
 7 unemployed in any week shall be paid with respect to such week a
 8 benefit in an amount equal to his weekly benefit amount, less his
 9 deductible income, if any, for such week. If such partial benefit is not
 10 a multiple of one dollar (\$1), it shall be computed to the next lower
 11 multiple of one dollar (\$1). The board may prescribe rules governing
 12 the payment of such partial benefits, and may provide with respect to
 13 individuals whose earnings cannot reasonably be computed on a
 14 weekly basis that such benefits may be computed and paid on other
 15 than a weekly basis; however, such rules shall secure results reasonably
 16 equivalent to those provided in the analogous provisions of this section.

17 (c) The weekly extended benefit amount payable to an individual for
 18 a week of total unemployment in the individual's eligibility period shall
 19 be an amount equal to the weekly benefit amount payable to the
 20 individual during the individual's applicable benefit period, prior to any
 21 reduction of such weekly benefit amount.

22 (d) With respect to initial claims filed for any week beginning on
 23 and after July 7, 1991, and before July 1, 1995, each eligible individual
 24 who is totally unemployed (as defined in IC 22-4-3-1) in any week in
 25 the individual's benefit period shall be paid for the week, if properly
 26 claimed, benefits at the rate of:

27 (1) five percent (5%) of the first one thousand dollars (\$1,000) of
 28 the individual's wage credits in the calendar quarter during the
 29 individual's base period in which the wage credits were highest;
 30 and

31 (2) four percent (4%) of the individual's remaining wage credits
 32 in the calendar quarter during the individual's base period in
 33 which the wage credits were highest.

34 However, the weekly benefit amount may not exceed the amount
 35 specified in subsections (e) through (i).

36 (e) With respect to initial claims filed for any week beginning on
 37 and after July 7, 1991, and before July 5, 1992, the weekly benefit
 38 amount may not exceed:

39 (1) one hundred sixteen dollars (\$116) if the eligible and qualified
 40 individual has no dependents;

41 (2) one hundred thirty-four dollars (\$134) if the eligible and
 42 qualified individual has one (1) dependent;



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(3) one hundred fifty-three dollars (\$153) if the eligible and qualified individual has two (2) dependents; or

(4) one hundred seventy-one dollars (\$171) if the eligible and qualified individual has three (3) or more dependents.

(f) With respect to initial claims filed for any week beginning on and after July 5, 1992, and before July 4, 1993, the weekly benefit amount may not exceed:

(1) one hundred forty dollars (\$140) if the eligible and qualified individual has no dependents;

(2) one hundred sixty dollars (\$160) if the eligible and qualified individual has one (1) dependent; or

(3) one hundred eighty-one dollars (\$181) if the eligible and qualified individual has two (2) or more dependents.

(g) With respect to initial claims filed for any week beginning on and after July 4, 1993, and before July 3, 1994, the weekly benefit amount may not exceed:

(1) one hundred seventy dollars (\$170) if the eligible and qualified individual has no dependents; or

(2) one hundred ninety-two dollars (\$192) if the eligible and qualified individual has one (1) or more dependents.

(h) With respect to initial claims filed for any week beginning on or after July 3, 1994, and before July 1, 1995, the weekly benefit amount may not exceed two hundred two dollars (\$202).

(i) With respect to initial claims filed for any week on or after July 1, 1995, the weekly benefit amount will equal the amount that results from applying the percentages provided in subsections (j) through (l) to the applicable maximum wage credits under IC 22-4-4-3.

(j) With respect to initial claims filed for any week beginning on and after July 1, 1995, and before July 1, 1997, each eligible individual who is totally unemployed (as defined in IC 22-4-3-1) in any week in the individual's benefit period shall be paid for the week, if properly claimed, benefits at the rate of:

(1) five percent (5%) of the first one thousand seven hundred fifty dollars (\$1,750) of the individual's wage credits in the calendar quarter during the individual's base period in which the wage credits were highest; and

(2) four percent (4%) of the individual's remaining wage credits in the calendar quarter during the individual's base period in which the wage credits were highest.

However, the weekly benefit amount may not exceed the amount specified in subsection (i).

(k) With respect to initial claims filed for any week beginning on

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and after July 1, 1997, **and before July 1, 2000**, each eligible individual who is totally unemployed (as defined in IC 22-4-3-1) in any week in the individual's benefit period shall be paid for the week, if properly claimed, benefits at the rate of:

(1) five percent (5%) of the first two thousand dollars (\$2,000) of the individual's wage credits in the calendar quarter during the individual's base period in which the wage credits were highest; and

(2) four percent (4%) of the individual's remaining wage credits in the calendar quarter during the individual's base period in which the wage credits were highest.

(l) With respect to initial claims filed for any week beginning on and after July 1, 2000, each eligible individual who is totally unemployed (as defined in IC 22-4-3-1) in any week in the individual's benefit period shall be paid for the week, if properly claimed, benefits at the rate of:

(1) five percent (5%) of the first three thousand dollars (\$3,000) of the individual's wage credits in the calendar quarter during the individual's base period in which the wage credits were highest; and

(2) four percent (4%) of the individual's remaining wage credits in the calendar quarter during the individual's base period in which the wage credits were highest.

SECTION 5. IC 22-4-18-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. (a) There is created a department under IC 22-4.1-2-1 which shall be known as the department of workforce development.

(b) The department of workforce development may:

(1) Administer the unemployment insurance program, the Wagner-Peyser program, the Job Training Partnership Act program, including a free public labor exchange, and related federal and state employment and training programs as directed by the governor.

(2) Formulate and implement an employment and training plan as required by the Job Training Partnership Act (29 U.S.C. 1501 et seq.) and the Wagner-Peyser Act (29 U.S.C. 49 et seq.).

(3) Coordinate activities with all state agencies and departments that either provide employment and training related services or operate appropriate resources or facilities, to maximize Indiana's efforts to provide employment opportunities for economically disadvantaged individuals, dislocated workers, and others with substantial barriers to employment.



(4) Apply for, receive, disburse, allocate, and account for all funds, grants, gifts, and contributions of money, property, labor, and other things of value from public and private sources, including grants from agencies and instrumentalities of the state and the federal government.

(5) Enter into agreements with the United States government that may be required as a condition of obtaining federal funds related to activities of the department.

(6) Enter into contracts or agreements and cooperate with local governmental units or corporations, including profit or nonprofit corporations, or combinations of units and corporations to carry out the duties of this agency imposed by this chapter, including contracts for the establishment and administration of employment and training offices and the delegation of its administrative, monitoring, and program responsibilities and duties set forth in this article. Before executing contracts described by this subdivision, the department shall give preferential consideration to using departmental personnel for the provision of services through local public employment and training offices. Contracting of Wagner-Peyser services is prohibited where state employees are ~~laid-off~~ **laid off** due to the diversion of Wagner-Peyser funds.

(7) Perform other services and activities that are specified in contracts for payments or reimbursement of the costs made with the Secretary of Labor or with any federal, state, or local public agency or administrative entity under the Job Training Partnership Act (29 U.S.C. 1501 et seq.), or private nonprofit organization.

(8) Enter into contracts or agreements and cooperate with entities that provide vocational education to carry out the duties imposed by this chapter.

(c) The department of workforce development may not enter into contracts for the delivery of services to claimants or employers under the unemployment insurance program. The payment of unemployment compensation must be made in accordance with 26 U.S.C. 3304.

(d) The department of workforce development may do all acts and things necessary or proper to carry out the powers expressly granted under this article, including the adoption of rules under IC 4-22-2.

(e) The department of workforce development may not charge any claimant for benefits for providing services under this article, except as provided in IC 22-4-17-12.

(f) The department of workforce development shall distribute federal funds made available for employment training in accordance with:



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1 (1) 29 U.S.C. 1501 et seq. and other applicable federal laws; and

2 (2) the plan prepared by the department under subsection (g)(1).

3 However, the Indiana commission on vocational and technical
4 education within the department of workforce development shall
5 distribute federal funds received under 29 U.S.C. 1533.

6 (g) In addition to the duties prescribed in subsections (a) through (f),
7 the department of workforce development shall do the following:

8 (1) Implement to the best of its ability its employment training
9 programs (as defined in IC 20-1-18.3-3), ~~and~~ the comprehensive
10 vocational education program in Indiana developed under the
11 long range plan under IC 20-1-18.3-10, **and the incumbent**
12 **worker training program under IC 22-4-10.5-1.**

13 (2) Upon request of the budget director, prepare a legislative
14 budget request for state and federal funds for employment
15 training. The budget director shall determine the period to be
16 covered by the budget request.

17 (3) Evaluate its programs according to criteria established by the
18 Indiana commission on vocational and technical education within
19 the department of workforce development under IC 20-1-18.3-13.

20 (4) Make or cause to be made studies of the needs for various
21 types of programs that are related to employment training and
22 authorized under the Job Training Partnership Act.

23 (5) Distribute state funds made available for employment training
24 that have been appropriated by the general assembly in
25 accordance with:

26 (A) the general assembly appropriation; and

27 (B) the plan prepared by the department under subdivision (1).

28 SECTION 6. IC 22-4-18-4 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. The department
30 of workforce development established under IC 22-4.1-2-1 shall
31 administer job training and placement services, **the incumbent worker**
32 **training program established under IC 22-4-10.5-1,** and
33 unemployment insurance.

34 SECTION 7. IC 22-4-19-6 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. (a) Each
36 employing unit shall keep true and accurate records containing
37 information the department considers necessary. These records are:

38 (1) open to inspection; and

39 (2) subject to being copied;

40 by an authorized representative of the department at any reasonable
41 time and as often as may be necessary. The commissioner, the review
42 board, or an administrative law judge may require from any employing



1 unit any verified or unverified report, with respect to persons employed
 2 by it, which is considered necessary for the effective administration of
 3 this article.

4 (b) Except as provided in subsection (d), information obtained or
 5 obtained from any person in the administration of this article and the
 6 records of the department relating to the unemployment tax, **the**
 7 **incumbent worker training assessment under IC 22-4-10.5-2**, or the
 8 payment of benefits is confidential and may not be published or be
 9 open to public inspection in any manner revealing the individual's or
 10 the employing unit's identity, except in obedience to an order of a court
 11 or as provided in this section.

12 (c) A claimant at a hearing before an administrative law judge or the
 13 review board shall be supplied with information from the records
 14 referred to in this section to the extent necessary for the proper
 15 presentation of the subject matter of the appearance. The commissioner
 16 may make the information necessary for a proper presentation of a
 17 subject matter before an administrative law judge or the review board
 18 available to an agency of the United States or an Indiana state agency.

19 (d) The commissioner may release the following information:

20 (1) Summary statistical data may be released to the public.

21 (2) Employer specific information known as ES 202 data and data
 22 resulting from enhancements made through the business
 23 establishment list improvement project may be released to the
 24 department of commerce only for the following purposes:

25 (A) The purpose of conducting a survey.

26 (B) The purpose of aiding the officers or employees of the
 27 department of commerce in providing economic development
 28 assistance through program development, research, or other
 29 methods.

30 (C) Other purposes consistent with the goals of the department
 31 of commerce and not inconsistent with those of the
 32 department.

33 (3) Employer specific information known as ES 202 data and data
 34 resulting from enhancements made through the business
 35 establishment list improvement project may be released to the
 36 budget agency only for aiding the employees of the budget agency
 37 in forecasting tax revenues.

38 (e) The commissioner may make information available under
 39 subsection (d) only:

40 (1) if:

41 (A) data provided in summary form cannot be used to identify
 42 information relating to a specific employer or specific

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employee; or

(B) there is an agreement that the employer specific information released to the department of commerce or budget agency will be treated as confidential and will be released only in summary form that cannot be used to identify information relating to a specific employer or a specific employee; and

(2) after the cost of making the information available to the person requesting the information is paid under IC 5-14-3.

(f) An employee of the department who recklessly violates subsection (a), (c), (d), or (e) commits a Class B misdemeanor.

(g) An employee of the department of commerce or the budget agency who violates subsection (d) or (e) commits a Class B misdemeanor.

SECTION 8. IC 22-4-19-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 7. In any case where an employing unit, or any officer, member, or agent thereof or any other person having possession of the records thereof, shall fail or refuse upon demand by the board, the review board, or an administrative law judge, or the duly authorized representative of any of them, to produce or permit the examination or copying of any book, paper, account, record, or other data pertaining to payrolls or employment or ownership of interests or stock in any employing unit, or bearing upon the correctness of any contribution report **or the incumbent worker training assessment under IC 22-4-10.5-2**, or for the purpose of making a report as required by this article where none has been made, then and in that event the board, the review board, or **the** administrative law judge, or the duly authorized representative of any of them, may by issuance of a subpoena require the attendance of such employing unit, or any officer, member, or agent thereof or any other person having possession of the records thereof, and take testimony with respect to any such matter and may require any such person to produce any books or records specified in such subpoena.

SECTION 9. IC 22-4-19-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 9. If any employing unit fails to make any payroll report required by this article, the commissioner shall give written notice by mail to the employing unit to make and file the report within ten (10) days from the date of the notice. If the employing unit, by its proper members, officers, or agents, fails or refuses to make and file the report within such time, the report shall be made by the department from the best information available, and the amount of contribution **and incumbent worker training assessment** due shall be computed thereon and the report

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1 shall be prima facie correct for the purposes of this article.

2 SECTION 10. IC 22-4-20-1 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. (a) Whenever
4 the commissioner shall consider any account or claim for contributions
5 **and incumbent worker training assessments under IC 22-4-10.5-2**
6 against an employer, and any penalty or interest due thereon, or any
7 part thereof, to be uncollectible, written notification containing
8 appropriate information shall be furnished to the attorney general by
9 the commissioner setting forth the reasons therefor and the extent to
10 which collection proceedings have been taken. The attorney general
11 may review such notice and may undertake additional investigation as
12 to the facts relating thereto, and shall thereupon certify to the
13 commissioner an opinion as to the collectibility of such account or
14 claim. If the attorney general consents to the cancellation of such claim
15 for delinquent contributions **and incumbent worker training**
16 **assessments** and any interest or penalty due thereon, the board may
17 then cancel all or any part of such claim.

18 (b) In addition to the procedure for cancellation of claims for
19 delinquent contributions **and incumbent worker training**
20 **assessments** set out in subsection (a), the board may cancel all or any
21 part of a claim for delinquent contributions **and incumbent worker**
22 **training assessments** against an employer if all of the following
23 conditions are met:

24 (1) The employer's account has been delinquent for at least seven
25 (7) years.

26 (2) The commissioner has determined that the account is
27 uncollectible and has recommended that the board cancel the
28 claim for delinquent contributions **and incumbent worker**
29 **training assessments**.

30 (c) When any such claim or any part thereof is cancelled by the
31 board, there shall be placed in the files and records of the department,
32 in the appropriate place for the same, a statement of the amount of
33 contributions, **incumbent worker training assessments**, and any
34 interest or penalty due thereon, and the action of the board taken with
35 relation thereto, together with the reasons therefor.

36 SECTION 11. IC 22-4-24.5 IS ADDED TO THE INDIANA CODE
37 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
38 JANUARY 1, 2000]:

39 **Chapter 24.5. Incumbent Worker Training Fund**

40 **Sec. 1. As used in this chapter, "incumbent worker" means an**
41 **individual performing employment (as defined in IC 22-4-8-1 and**
42 **IC 22-4-8-2).**



1 **Sec. 2. (a) The incumbent worker training fund is established to**
 2 **do the following:**

3 (1) **Administer the costs of the incumbent worker training**
 4 **program established under IC 22-4-10.5-1.**

5 (2) **Undertake any program or activity that furthers the**
 6 **purposes of IC 22-4-10.5.**

7 (b) **The fund shall be administered by the commissioner.**

8 (c) **The expenses of administering the fund shall be paid from**
 9 **money in the fund.**

10 (d) **The treasurer of state shall invest the money in the fund not**
 11 **currently needed to meet the obligations of the fund in the same**
 12 **manner as other public money may be invested. Interest that**
 13 **accrues from these investments shall be deposited in the fund.**

14 (e) **Money in the fund at the end of a state fiscal year does not**
 15 **revert to the state general fund.**

16 (f) **The fund consists of the following:**

17 (1) **Assessments deposited in the fund under IC 22-4-10.5-2.**

18 (2) **Earnings acquired through the use of money belonging to**
 19 **the fund.**

20 (3) **Money received from the fund from any other source.**

21 (4) **Interest earned from money in the fund.**

22 (g) **All money deposited or paid into the fund is:**

23 (1) **appropriated;**

24 (2) **made available to the department; and**

25 (3) **expended by the commissioner for the administration of**
 26 **this chapter and for no other purpose.**

27 (h) **Any balance in the fund does not lapse but is available**
 28 **continuously to the department for expenditures consistent with**
 29 **this chapter.**

30 **SECTION 12. IC 22-4-29-1 IS AMENDED TO READ AS**
 31 **FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. (a)**
 32 **Contributions and incumbent worker training assessments under**
 33 **IC 22-4-10.5-2** unpaid on the date on which they are due and payable,
 34 as prescribed by the commissioner, shall bear interest at the rate of one
 35 percent (1%) per month or fraction thereof from and after such date
 36 until payment, plus accrued interest, is received by the department. The
 37 board may prescribe fair and reasonable regulations pursuant to which
 38 such interest shall not accrue.

39 (b) **If the failure to pay any part or all of the delinquent contributions**
 40 **is due to negligence or intentional disregard of authorized rules,**
 41 **regulations, or notices, but without intent to defraud, there shall be**
 42 **added, as a penalty, ten percent (10%) of the total amount of**



1 contributions **and incumbent worker training assessments under**
 2 **IC 22-4-10.5-2** unpaid, which penalty shall become due and payable
 3 upon notice and demand by the commissioner.

4 (c) If the commissioner finds that the failure to pay any part or all of
 5 delinquent contributions **and incumbent worker training**
 6 **assessments under IC 22-4-10.5-2** is due to fraud with intent to evade
 7 the payment of contributions **and incumbent worker training**
 8 **assessments**, there shall be added, as a penalty, fifty percent (50%) of
 9 the total amount of delinquent contributions **and incumbent worker**
 10 **training assessments**, which penalty shall become due and payable
 11 upon notice and demand by the commissioner.

12 (d) Interest and penalties collected pursuant to this section shall be
 13 paid into the special employment and training services fund.

14 SECTION 13. IC 22-4-29-2 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 2. In addition to
 16 all other powers granted to the commissioner by this article, the
 17 commissioner or the commissioner's duly authorized representatives
 18 shall have the power to make assessments against any employing unit
 19 which fails to pay contributions, interest, **incumbent worker training**
 20 **assessments under IC 22-4-10.5-2**, or penalties as required by this
 21 article, or for additional contributions **and incumbent worker training**
 22 **assessments** due and unpaid, which assessment shall be deemed prima
 23 facie correct. Such assessments shall consist of contributions,
 24 **incumbent worker training assessments under IC 22-4-10.5-2**, and
 25 any interest or penalties which may be due by reason of section 1 of
 26 this chapter, **or the incumbent worker training assessment and**
 27 **interest due under IC 22-4-10.5**. Such assessment must be made not
 28 later than four (4) calendar years subsequent to the date that said
 29 contributions, **incumbent worker training assessments**, interest, or
 30 penalties would have become due, except that this limitation shall not
 31 apply to any contributions, **incumbent worker training assessments**,
 32 interest, or penalties which should have been paid with respect to any
 33 incorrect report filed with the department which report was known or
 34 should have been known to be incorrect by the employing unit.

35 SECTION 14. IC 22-4-29-6 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 6. (a) Unless an
 37 assessment is paid in full within seven (7) days after it becomes final,
 38 the commissioner or the commissioner's representative may file with
 39 the clerk of the circuit court of any county in the state a warrant in
 40 duplicate, directed to the sheriff of such county, commanding the
 41 sheriff to levy upon and sell the property, real and personal, tangible
 42 and intangible, of the employing unit against whom the assessment has

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1 been made, in sufficient quantity to satisfy the amount thereof, plus
 2 damages to the amount of ten percent (10%) of such assessment, which
 3 shall be in addition to the penalties prescribed in this article for
 4 delinquent payment, and in addition to the interest at the rate of one
 5 percent (1%) per month upon the unpaid contribution **and incumbent**
 6 **worker training assessment under IC 22-4-10.5-2** from the date it
 7 ~~was~~ due, to the date of payment of the warrant, and in addition to all
 8 costs incident to the recording and execution thereof. The remedies by
 9 garnishment and proceedings supplementary to execution as provided
 10 by law shall be available to the board to effectuate the purposes of this
 11 chapter. Within five (5) days after receipt of a warrant under this
 12 section, the clerk shall:

- 13 (1) retain the duplicate copy of the warrant;
- 14 (2) enter in the judgment record in the column for judgment
- 15 debtors the name of the employing unit stated in the warrant, or
- 16 if the employing unit is a partnership, the names of the partners;
- 17 (3) enter the amount sought by the warrant;
- 18 (4) enter the date the warrant was received; and
- 19 (5) certify the original warrant and return it to the department.

20 (b) Five (5) days after the clerk receives a warrant under subsection
 21 (a) the amount sought in the warrant, the damages to an amount of ten
 22 percent (10%) of the assessment as provided in subsection (a),
 23 penalties, and interest described in subsection (a) become a lien upon
 24 the title to and interest in the real and personal property of the
 25 employing unit.

26 SECTION 15. IC 22-4-29-12 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 12. The liability
 28 for any contributions, **incumbent worker training assessments**,
 29 interest, penalties, and damages imposed by this chapter, or costs
 30 incidental to execution of warrants, shall not be subject to any of the
 31 provisions of the exemption laws of the state of Indiana for the relief of
 32 debtors.

33 SECTION 16. IC 22-4-30-1 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. Any employer
 35 against whom contributions **and incumbent worker training**
 36 **assessments under IC 22-4-10.5-2** shall be assessed as provided in
 37 this article shall be restrained and enjoined upon the order of the board
 38 by proper proceedings instituted in the name of the state of Indiana,
 39 brought by the attorney general for the state of Indiana and/or any
 40 prosecuting attorney at the request of the board, from engaging and/or
 41 continuing in business in this state until the contributions, **incumbent**
 42 **worker training assessments**, interest, penalties, and damages shall



1 have been paid and until such employer shall have complied with the
 2 provisions of this article; and such attorneys shall prosecute violations
 3 of criminal provisions of this article upon request of the board.

4 SECTION 17. IC 22-4-31-1 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. If any
 6 contributions, **incumbent worker training assessments under**
 7 **IC 22-4-10.5-2**, interest, penalties, or damages assessed under this
 8 article, or any portion thereof, be not paid within one hundred twenty
 9 (120) days after the same is found to be due, a receiver may be
 10 appointed by the circuit or superior court of the county in which such
 11 employer resides or in which he is doing business or in which its
 12 resident agent is located in a proceeding requesting such appointment
 13 instituted against the said employer in the name of the state of Indiana,
 14 brought by the attorney general for the state of Indiana at the request of
 15 the board. The court shall appoint a receiver when it finds that the
 16 employer has not paid the contributions, **incumbent worker training**
 17 **assessments**, or amounts due imposed by this article within one
 18 hundred twenty (120) days after the same is found to be due, and that
 19 contributions, **incumbent worker training assessments**, interest,
 20 penalties, or damages, or any portion thereof, is unpaid and delinquent.
 21 Such cause for the appointment of a receiver shall be in addition to all
 22 other causes or grounds provided by law for the appointment of
 23 receivers and shall be in addition to all other methods for the
 24 enforcement of this article. Each such receiver shall give bond and be
 25 sworn as provided for by law and shall have power under the control
 26 of the court to bring and defend actions, to take and keep possession of
 27 the property of the employer, to receive all funds and collect any debts
 28 due to the employer, in the receiver's name, and generally to do such
 29 acts respecting the property as the court shall authorize, and shall have
 30 all the powers granted to, or shall be subject to all the duties of,
 31 receivers under the laws of this state.

32 SECTION 18. IC 22-4-31-3 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 3. No injunction
 34 to restrain or delay the collection of any contributions, **incumbent**
 35 **worker training assessments under IC 22-4-10.5-2**, or other amounts
 36 claimed to be due under the provisions of this article shall be issued by
 37 any court.

38 SECTION 19. IC 22-4-31-4 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. If the
 40 department finds that the collection of any contributions **and**
 41 **incumbent worker training assessments under IC 22-4-10.5-2** will
 42 be jeopardized by delaying, it shall enter such finding of record and

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thereupon, whether or not such contributions **and incumbent worker training assessments** are due, immediately assess such contributions **and incumbent worker training assessments** with interest and notify the employer thereof and simultaneously demand payment of the amount due in writing. If such payment is not made on demand, the commissioner shall immediately issue a warrant to the sheriff of any county in the state commanding the sheriff to immediately levy upon and sell sufficient of the employer's property found within the sheriff's bailiwick to satisfy said warrant. The sheriff shall file the warrant in the office of the clerk of the circuit court within twenty-four (24) hours after the sheriff has levied upon the property of the employer, and the lien of the department shall begin with the date upon which the warrant comes into the possession of the sheriff. The lien shall have the same effect as any other lien created by this article.

SECTION 20. IC 22-4-32-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. All matters pertaining to:

- (1) the assessment of contributions, **incumbent worker training assessments under IC 22-4-10.5-2**, penalties, and interest;
- (2) which accounts, if any, benefits paid, or finally ordered to be paid, should be charged;
- (3) successorships, and related matters arising therefrom, including but not limited to:
 - (A) the transfer of accounts; and
 - (B) the determination of rates of contribution; and
- (4) claims for refunds of contributions, **incumbent worker training assessments**, or adjustments thereon in connection with subsequent contribution payments **and incumbent worker training assessments**;

shall be heard by a liability administrative law judge upon proper application for such hearing.

SECTION 21. IC 22-4-32-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 4. An employing unit shall have fifteen (15) days within which to protest in writing initial determinations of the commissioner with respect to:

- (1) the assessments of contributions, penalties, and interest;
- (2) the transfer of charges from an employer's account;
- (3) merit rate calculations;
- (4) successorships;
- (5) the denial of claims for refunds and adjustments; ~~and~~
- (6) a protest arising from an initial determination of the director relating to any matter listed in subdivisions (1) through (5); **and**



1 **(7) incumbent worker training assessments under**
 2 **IC 22-4-10.5-2.**

3 The fifteen (15) day period shall commence with the day following the
 4 day upon which the initial determination or denial of claim for refund
 5 or adjustment is mailed to the employing unit.

6 SECTION 22. IC 22-4-32-15 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 15. No judicial
 8 review proceeding shall be entertained by the court with respect to the
 9 assessment of any contributions, interest, **incumbent worker training**
 10 **assessments under IC 22-4-10.5-2**, or penalties, unless the court finds
 11 that the payment of such assessment is secured by bond, deposit or
 12 otherwise as the court may approve. The bond shall be in such an
 13 amount necessary to insure the payment of the assessment stayed, and
 14 court costs, if any, which may be incurred in this action.

15 SECTION 23. IC 22-4-32-16 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 16. In the event
 17 of any distribution of any employer's assets pursuant to an order of any
 18 court under the laws of this state including but not necessarily limited
 19 to any receivership, assignment for benefit of creditors, adjudicated
 20 insolvency, composition or similar proceeding, contributions **and**
 21 **incumbent worker training assessments under IC 22-4-10.5-2** then
 22 or thereafter due shall be paid in full prior to all other claims except
 23 claims for remuneration.

24 SECTION 24. IC 22-4-32-17 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 17. No final
 26 report or act of any executor, administrator, receiver, other fiduciary,
 27 or other officer engaged in administering the assets of any employer
 28 subject to the payment of contributions under this article and acting
 29 under the authority and supervision of any court shall be allowed or
 30 approved by the court unless such report or account shows and the
 31 court finds that all contributions, interest, **incumbent worker training**
 32 **assessments under IC 22-4-10.5-2**, and penalties imposed by this
 33 article have been paid pursuant to this section, and that all
 34 contributions **and incumbent worker training assessments** which
 35 may become due under this article are secured by bond or deposit.

36 SECTION 25. IC 22-4-32-18 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 18. To the end
 38 that the purposes of this article may be effectively enforced and
 39 administered, it is the declared intention of the general assembly that
 40 in all cases of legal distributions and dissolutions the commissioner
 41 shall have actual notice before any fiduciary administering the affairs
 42 of an employer subject to the payment of contributions **and incumbent**



1 **worker training assessments** under this article may file the fiduciary's
 2 final report with the court under whose authority and supervision such
 3 fiduciary acts. From and after April 1, 1947, no such final report shall
 4 be filed unless a copy thereof has been served upon the commissioner
 5 by mailing a copy thereof by registered mail to the commissioner at the
 6 commissioner's office in Indianapolis at least ten (10) days prior to the
 7 filing of the same with the court. Such final report shall contain a
 8 statement that a copy thereof was served in the manner provided in this
 9 section upon the commissioner, and before such final report may be
 10 approved by the court there shall be filed in said cause a certificate
 11 from the commissioner that this section has been fully complied with
 12 in the administration of the affairs of said employer. In the event that
 13 the commissioner shall not have been served with a copy of the final
 14 report as provided in this section and the fiduciary or other officer of
 15 the court administering the affairs of any such employer shall have
 16 been discharged and the fiduciary's or other officer's final report
 17 approved, the commissioner may at any time within one (1) year from
 18 the date upon which such final report was approved file a petition with
 19 the court alleging that there was not full compliance with this section
 20 and the court, upon being satisfied that the commissioner was not fully
 21 advised of the proceedings relative to the filing and approval of the
 22 final report as provided in this section, shall set aside its approval of
 23 said final report with the result that the proceedings shall be reinstated
 24 as though no final report had been filed in the first instance and shall
 25 proceed from that point in the manner provided by law and not
 26 inconsistent with the provisions of this section.

27 SECTION 26. IC 22-4-32-19 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 19. (a) At any
 29 time within four (4) years after the date upon which any contributions,
 30 **incumbent worker training assessments under IC 22-4-10.5-2**, or
 31 interest thereon were paid, an employing unit which has paid such
 32 contributions, **incumbent worker training assessments**, or interest
 33 thereon may make application for a refund of such contributions,
 34 **incumbent worker training assessments**, or an adjustment thereon in
 35 connection with subsequent contribution payments **or incumbent**
 36 **worker training assessments**. The commissioner shall thereupon
 37 determine whether or not such contribution **or incumbent worker**
 38 **training assessment**, or interest or any portion thereof was erroneously
 39 paid or wrongfully assessed and notify the employing unit in writing of
 40 its decision.

41 (b) Such decision shall constitute the initial determination referred
 42 to in section 4 of this chapter and shall be subject to hearing and review



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as provided in sections 1 through 15 of this chapter.

(c) The commissioner may grant such application in whole or in part and may allow the employing unit to make an adjustment thereof without interest in connection with subsequent contribution payments **or incumbent worker training assessments**. If such adjustment cannot be made, the commissioner may refund such amounts, without interest, from the fund. For like cause and within the same period, adjustments or refund may be made on the commissioner's own initiative. Any adjustments or refunds of interest or penalties collected **for contributions due under IC 22-4-10-1** shall be charged to and paid from the special employment and training services fund created by IC 22-4-25. **Any adjustments or refunds of interest or penalties collected for incumbent worker training assessments due under IC 22-4-10.5-2 shall be charged to and paid from the incumbent worker training fund established under IC 22-4-24.5-2.**

(d) If any assessment has become final by virtue of a decision of a liability administrative law judge with the result that no proceeding for judicial review as provided in this article was instituted, no refund or adjustment with respect to such assessment shall be made.

SECTION 27. IC 22-4-32-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 20. The contributions, penalties, **incumbent worker training assessments under IC 22-4-10.5-2**, and interest due from any employer under the provisions of this article from the time they shall be due shall be a personal liability of the employer to and for the benefit of the fund and the employment and training services administration fund.

SECTION 28. IC 22-4-32-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 21. (a) Any individual, group of individuals, or other legal entity, whether or not an employing unit which acquires all or part of the organization, trade, or business within this state of an employer or which acquires all or part of the assets of such organization, trade or business, shall notify the commissioner in writing by registered mail not later than five (5) days prior to the acquisition.

(b) Unless such notice is given, the commissioner shall have the right to proceed against either the predecessor or successor, in personam or in rem, for the collection of contributions, **incumbent worker training assessments under IC 22-4-10.5-2**, and interest due or accrued and unpaid by the predecessor, as of the date of such acquisition, and the amount of such liability shall, in addition, be a lien against the property or assets so acquired which shall be prior to all other liens. However, the lien shall not be valid as against one who



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1 acquires from the successor any interest in the property or assets in
2 good faith, for value and without notice of the lien.

3 (c) On written request after the acquisition is completed, the
4 commissioner shall furnish the successor with a written statement of
5 the amount of contributions, **incumbent worker training assessments**,
6 and interest due or accrued and unpaid by the predecessor as of the
7 date of such acquisition, and the liability of the successor and the
8 amount of the lien shall in no event exceed the reasonable value of the
9 property or assets acquired by the successor from the predecessor or the
10 amount disclosed by such statement, whichever is the lesser.

11 (d) The remedies prescribed by this section are in addition to all
12 other existing remedies against the predecessor or successor.

13 SECTION 29. IC 22-4-32-23 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 23. (a) As used
15 in this section:

16 (1) "Dissolution" refers to dissolution of a corporation under
17 IC 23-1-45 through IC 23-1-48.

18 (2) "Liquidation" means the operation or act of winding up a
19 corporation's affairs, when normal business activities have ceased,
20 by settling its debts and realizing upon and distributing its assets.

21 (3) "Withdrawal" refers to the withdrawal of a foreign corporation
22 from Indiana under IC 23-1-50.

23 (b) The officers and directors of a corporation effecting dissolution,
24 liquidation, or withdrawal shall do the following:

25 (1) File all necessary documents with the department in a timely
26 manner as required by this article.

27 (2) Make all payments of contributions **and incumbent worker**
28 **training assessments under IC 22-4-10.5-2** to the department in
29 a timely manner as required by this article.

30 (3) File with the department a form of notification within thirty
31 (30) days of the adoption of a resolution or plan. The form of
32 notification shall be prescribed by the department and may
33 require information concerning:

34 (A) the corporation's assets;

35 (B) the corporation's liabilities;

36 (C) details of the plan or resolution;

37 (D) the names and addresses of corporate officers, directors,
38 and shareholders;

39 (E) a copy of the minutes of the shareholders' meeting at which
40 the plan or resolution was formally adopted; and

41 (F) such other information as the board may require.

42 The commissioner may accept, in lieu of the department's form of

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notification, a copy of Form 966 that the corporation filed with the Internal Revenue Service.

(c) Unless a clearance is issued under subsection (g), for a period of one (1) year following the filing of the form of notification with the department, the corporate officers and directors remain personally liable, subject to IC 23-1-35-1(e), for any acts or omissions that result in the distribution of corporate assets in violation of the interests of the state. An officer or director held liable for an unlawful distribution under this subsection is entitled to contribution:

(1) from every other director who voted for or assented to the distribution, subject to IC 23-1-35-1(e); and

(2) from each shareholder for the amount the shareholder accepted.

(d) The corporation's officers' and directors' personal liability includes all contributions, **incumbent worker training assessments**, penalties, interest, and fees associated with the collection of the liability due the department. In addition to the penalties provided elsewhere in this article, a penalty of up to thirty percent (30%) of the unpaid contributions **and incumbent worker training assessments** may be imposed on the corporate officers and directors for failure to take reasonable steps to set aside corporate assets to meet the liability due the department.

(e) If the department fails to begin a collection action against a corporate officer or director within one (1) year after the filing of a completed form of notification with the department, the personal liability of the corporate officer or director expires. The filing of a substantially blank form of notification or a form containing misrepresentation of material facts does not constitute filing a form of notification for the purpose of determining the period of personal liability of the officers and directors of the corporation.

(f) In addition to the remedies contained in this section, the department is entitled to pursue corporate assets that have been distributed to shareholders in violation of the interests of the state. The election to pursue one (1) remedy does not foreclose the state's option to pursue other legal remedies.

(g) The department may issue a clearance to a corporation effecting dissolution, liquidation, or withdrawal if:

(1) the officers and directors of the corporation have met the requirements of subsection (b); and

(2) request for the clearance is made in writing by the officers and directors of the corporation within thirty (30) days after the filing of the form of notification with the department.

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(h) The issuance of a clearance by the department under subsection (g) releases the officers and directors from personal liability under this section.

SECTION 30. IC 22-4-32-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 24. (a) This section applies to notices given under sections 4, 7, 8, and 9 of this chapter.

(b) As used in this section, "notices" includes mailings pertaining to:

- (1) the assessment of contributions, **incumbent worker training assessments under IC 22-4-10.5-2**, penalties, and interest;
- (2) the transfer of charges from an employer's account;
- (3) successorships and related matters arising from successorships;
- (4) claims for refunds and adjustments;
- (5) decisions; and
- (6) notices of intention to appeal or seek judicial review.

(c) If a notice under this chapter is served through the United States Postal Service, three (3) days must be added to a period that commences upon service of that notice.

(d) The filing of a document with the appellate division or review board is complete on the earliest of the following dates that apply to the filing:

- (1) The date on which the document is delivered to the appellate division or review board.
- (2) The date of the postmark on the envelope containing the document if the document is mailed to the appellate division or review board by the United States Postal Service.
- (3) The date on which the document is deposited with a private carrier, as shown by a receipt issued by the carrier, if the document is sent to the appellate division or review board by a private carrier.

SECTION 31. IC 22-4-33-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: Sec. 1. Except as provided in IC 22-4-39, any agreement by an individual to waive, release or commute his rights to benefits or any other rights under this article is void. Any agreement by any individual in the employ of any person or concern to pay all or any portion of an employer's contributions **or incumbent worker training assessments under IC 22-4-10.5-2** required under this article from the employer is void. No employer may make or require or accept any deduction from the remuneration of individuals in his employ to finance the employer's contributions **or incumbent worker training assessments under**



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- 1 **IC 22-4-10.5-2** required from him, or require or accept any waiver by
2 any individual in his employ of any right under this article.

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